

BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

BRUCE E. STEWART, M.D.

Holder of License No. 17856
For the Practice of Allopathic Medicine
In the State of Arizona.

Case No. MD-02-0231

**CONSENT AGREEMENT FOR
LETTER OF REPRIMAND**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Medical Board ("Board") and Bruce E. Stewart, M.D. ("Respondent"), the parties agreed to the following disposition of this matter.

1. Respondent acknowledges that he has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Respondent acknowledges that he has the right to consult with legal counsel regarding this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement, he voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Order.

3. Respondent acknowledges and understands that this Consent Agreement is not effective until approved by the Board and signed by its Executive Director.

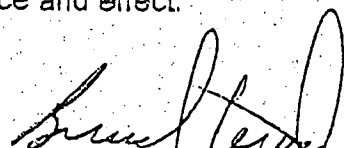
4. All admissions made by Respondent are solely for final disposition of this matter and any subsequent related administrative proceedings or civil litigation involving the Board and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government

1 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
2 any other state or federal court.

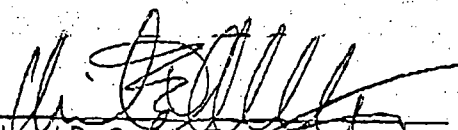
3 5. Respondent acknowledges and agrees that, although the Consent
4 Agreement has not yet been accepted by the Board and issued by the Executive Director,
5 upon signing this agreement, and returning this document (or a copy thereof) to the
6 Board's Executive Director, Respondent may not revoke her acceptance of the Consent
7 Agreement. Respondent may not make any modifications to the document. Any
8 modifications to this original document are ineffective and void unless mutually approved
9 by the parties.

10 6. Respondent further understands that this Consent Agreement, once
11 approved and signed, is a public record that may be publicly disseminated as a formal
12 action of the Board and will be reported to the National Practitioner Data Bank and to the
13 Arizona Medical Board's website.

14 7. If any part of the Consent Agreement is later declared void or otherwise
15 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
16 force and effect.

17 
18 _____
19 Bruce E. Stewart, M.D.

DATED: 7/10/03

20 
21 _____
22 Michael B. Smith, Esq.
23 Approved as to Form

DATED: 7/14/03

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 17856 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-02-0231 after it received notification of a monetary settlement involving Respondent's care and treatment of a 42-year-old female patient ("B.W.").

4. In October 1996, B.W. went to her plastic surgeon ("Surgeon") for a follow up visit concerning her chin and neck liposuction that had been performed in August 1996. The Surgeon noted a lump in B.W.'s left parotid area along with neck and thoracic spine complaints and referred her to Respondent. Simultaneously, B.W.'s primary care physician ("PCP") evaluated her for complaints of neck and thoracic spine pain and referred her for a computed tomography ("CT") scan of the cervical and thoracic spine.

5. On November 16, 1996, B.W. underwent a CT scan in Casa Grande, Arizona. The lump on the parotid area was apparent on that exam, but was not commented upon by the radiologist in his report.

6. On December 18, 1996, B.W. presented to Respondent with complaints of left-sided sinus pain. Respondent performed a thorough otolaryngological evaluation and found no abnormalities other than a 3-cme lump that was located in B.W.'s left parotid area. Respondent diagnosed a damaged parotid gland and performed a needle aspiration, obtaining clear fluid that appeared to be saliva. Respondent prescribed B. W. pain medication, along with antibiotics, and told her to return if the lump persisted.

7. On January 31, 1997, B.W. returned to her Surgeon with complaints that the nodule had grown in size and was causing pain. The Surgeon examined and diagnosed

1 the nodule as slightly mobile but almost fixed at the undersurface of the mandible. The
2 Surgeon aspirated the enlarging cyst. The Surgeon sent the fluid for cytology that turned
3 out to be negative.

4 8. On February 3, 1997, the Surgeon referred B.W. back to Respondent due to
5 insurance reasons; however, the Surgeon failed to relay the negative cytology report. On
6 February 4, 1997, B.W. returned to Respondent who arranged for a neck CT scan.

7 9. On February 10, 1997, B.W. underwent a CT scan of the neck. The study
8 showed a 3-cm predominately cystic mass with septations and a mild peripheral
9 enhancement along the left side of her neck beginning at the angle of the mandible. The
10 mass was posterior to the mandible deep to the sternocleidomastoid muscle and lateral to
11 the carotid artery and jugular vein. According to the radiologist ("Radiologist"), the CT
12 appearance was most consistent with markedly enlarged lymph that appeared to have
13 undergone cystic degeneration and is likely to represent a neoplastic process, most likely
14 metastatic to the cervical lymph node chain in that area. No other masses or adenopathy
15 were evident. The mass was separate and distinct from the salivary glands and was
16 producing anterior and superior displacement of the left submandibular salivary gland.

17 10. On February 12, 1997, Respondent saw B.W. in follow-up and noted that the
18 physical exam was essentially unchanged. B.W. still had left ear pain with some decrease
19 in sense of taste, particularly sweet things tasted bitter but there was no evidence of
20 infection of the tongue.

21 11. Respondent diagnosed B.W. with a cyst from an injured parotid salivary
22 gland. Respondent advised B.W. that the cyst needed to be excised and was best
23 approached through a left parotidectomy-type incision. Respondent advised B.W. of the
24 risks and the need for an overnight stay in the hospital.

1 12. On February 26, 1997, when B.W. underwent surgery, Respondent found
2 the cyst was a positive lymph node. Respondent found the primary site in B.W.'s left tonsil
3 and obtained biopsies because he suspected the carcinoma originated in the tonsil.
4 Respondent discussed options with B.W. after she recovered from anesthesia and it was
5 decided to remove the tonsil with follow-up radiochemotherapy.

6 13. On February 27, 1997, Respondent performed an intraoral excision of B.W.'s
7 left tonsil and pathology indicated poorly differentiated squamous cell carcinoma.

8 14. On March 3, 1997, B.W. underwent a head CT scan that showed no
9 abnormalities, no signs of metastatic lesions, and no signs of skull base lesion. The CT
10 scan did show some post-operative changes at or about the level of the posterior angle of
11 the mandible on the left, just below the parotid salivary gland. It was unclear as to whether
12 the changes were a consequence of the surgery or represented lymph node enlargement
13 along the left lateral oropharynx.

14 15. On March 4, 1997, Respondent discharged B.W. from the hospital with
15 instructions to use liquid morphine elixir for pain and amoxicillin. B.W. was instructed to
16 contact another physician ("Physician R.") for radiation therapy and to follow-up with
17 Respondent in two or three weeks with respect to surgery.

18 16. On March 7, 1997, Physician R. examined B.W. and recommended radiation
19 therapy with appropriate pre-therapy dental work.

20 17. On March 26, 1997, B.W. presented to an Ear, Nose, and Throat surgeon
21 ("ENT Surgeon"). The ENT Surgeon examined B.W. and noted a 1.5-cm mobile, firm
22 node just below to the left neck incision. A fine needle aspiration of the mass was
23 performed and the ENT Surgeon assessed a Stage 4 cancer of the oropharynx. The ENT
24 Surgeon advised B.W. to undergo a combination treatment of surgery followed by adjuvant
25 radiation therapy and discussed various options.

18. On April 24, 1997, the ENT Surgeon performed a radical dissection of B.W.'s left neck and *en bloc* resection of the affected lymph chain. B.W. continued care under the ENT Surgeon and received subsequent radiation therapy. B.W. is now more than five years post-treatment with no recurrence.

19. A Board Medical Consultant ("Consultant") reviewed this case and opined that the standard of care required Respondent to thoroughly evaluate the head and neck, provide a careful evaluation by CT or MRI scanning, give appropriate weight to the findings prior to the surgical excision of a neck mass, and consider metastatic cancer in the presence of a neck mass. The Consultant stated it is understandable that Respondent had been misled by a cystic mass containing clear fluid; however, parotid cysts are quite uncommon and metastatic malignancy must be included in the differential diagnosis.

20. Respondent failed to meet the accepted standard of care because he failed to provide an adequate ear, nose and throat evaluation, and consider the possibility of malignancy. Therefore, Respondent failed to perform the proper evaluations to look for a malignancy even when apprised of the possibility by the radiologic (CT) findings.

21. B.W. was harmed because she underwent an unnecessary surgical procedure.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. § 32-1401(24)(q) – ([a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public.”).

3. The conduct and circumstances described above constitute unprofessional conduct put pursuant to A.R.S. § 32-1401(24)(II) – ([c]onduct that the board determines is

gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is issued a Letter of Reprimand for his failure to properly evaluate and treat a patient with tonsil cancer metastatic to the neck.

2. This Order is the final disposition of case number MD-02-0231.

DATED AND EFFECTIVE this 15th day of AUGUST, 2003.



ARIZONA MEDICAL BOARD

By Barry A. Cassidy
BARRY A. CASSIDY, Ph.D., PA-C
Executive Director

ORIGINAL of the foregoing filed this 15th day of AUGUST, 2003 with:

Arizona Medical Board
c/o D.K. Keenom, Investigations
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing mailed by
mailed this 15th day of AUGUST, 2003, to:

Michael B. Smith, Esq.
Slutes, Sakrison & Hill, P.C.
33 N. Stone Avenue, Suite 1000
Tucson, AZ 85701-1489

EXECUTED COPY of the foregoing mailed by
Certified Mail this 15th day of AUGUST, 2003, to:

Bruce E. Stewart, M.D.
11825 E Elin Ranch Rd
Tucson AZ 85749-8798

1 EXECUTED COPY of the foregoing
2 hand-delivered this 15th day of
AUGUST, 2003, to:

3 Christine Cassetta, Assistant Attorney General
4 Sandra Waitt, Management Analyst
5 c/o Arizona Medical Board
6 9545 E. Doubletree Ranch Road
7 Scottsdale, AZ 85258

8 Brenda A. Alesi
9 Board Operations
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